

Fall 2012

## Panorama - International Perspectives: Kathleen Curran, Director of Casa Nuevo Horizonte, Santa Cruz, Bolivia

James Hagy

New York Law School, [james.hagy@nyls.edu](mailto:james.hagy@nyls.edu)

Follow this and additional works at: [http://digitalcommons.nyls.edu/rooftops\\_project](http://digitalcommons.nyls.edu/rooftops_project)



Part of the [Business Organizations Law Commons](#), [Land Use Law Commons](#), [Legal Education Commons](#), [Organizations Law Commons](#), [Property Law and Real Estate Commons](#), [Social Welfare Law Commons](#), [State and Local Government Law Commons](#), and the [Tax Law Commons](#)

---

### Recommended Citation

Hagy, James, "Panorama - International Perspectives: Kathleen Curran, Director of Casa Nuevo Horizonte, Santa Cruz, Bolivia" (2012). *Rooftops Project*. Book 1.

[http://digitalcommons.nyls.edu/rooftops\\_project/1](http://digitalcommons.nyls.edu/rooftops_project/1)

This Book is brought to you for free and open access by the Academic Centers and Programs at DigitalCommons@NYLS. It has been accepted for inclusion in Rooftops Project by an authorized administrator of DigitalCommons@NYLS.

# THE ROOFTOPS PROJECT

Photographer/Artist: Kathleen Curran



**Panorama**

## International Perspectives: Kathleen Curran, Director of Casa Nuevo Horizonte, Santa Cruz, Bolivia

**Kathleen Curran** reflects on the important role that physical space has played in her charitable mission in Bolivia supporting promising students seeking an advanced education in a setting of poverty.

*I first came to know and respect Kathleen when she and I worked together in Chicago in private practice with one of the largest global law firms. Kathleen has since dedicated herself for a decade to a life of service with the Salesian Missions in Bolivia. Her background in real estate has continued to play a part in achieving these objectives and to inform her work. She shares her experiences with us here.*

**—Professor James Hagy, Director of The Rooftops Project**

I didn't know whether to laugh or be flattered that you thought of contacting me—an idealist (or crazy person—you pick) slugging it out with a small education mission in Bolivia, the poorest country in South America. Either way, I thank you for doing so. I confess that I have never carefully analyzed the role that real estate plays in our organizational performance as a mission. Motivated by your intriguing articles, I have now done so. My conclusion is that our mission probably would not exist today, nor have the success it has, without our real estate.

By way of general background, I have been affiliated with the Salesians Missions in Bolivia since 2002. The Salesians are a Catholic mission group that has been dedicated to helping poor youth around the world for over a century. I have worked as a teacher and caretaker in Salesian-run orphanages and schools. The sites where I worked are actually run by Salesian religious sisters. I am not a sister; just an ordinary person working with the Salesians. That said, I have become very friendly with the sisters (it is easy to make

friends with saints). While working with them, the real estate lawyer in me was always curious how they held the real property on which the school or orphanage was situated, and I would invariably ask about this. Their responses, more often than not, helped me better understand why they are always emphasizing Divine Providence so much.

In most cases, the sisters were never really sure who owned the land. They usually assumed the local Catholic diocese. Even when we did construction projects and I asked about property lines, they gave me their best guesses as to where the lines existed. I would gently encourage verification of the state of title. However, given the sisters' incredible workload; the location of the deed registry over two hours away; the incredible amount of time and money required to verify the state of title; the likelihood of unreliable title searches; and the even greater amount of time and money required to fix any title error, the sisters invariably decided to once again rely on Divine Providence instead.

Thankfully, the orphanages and schools where I have worked have never had problems with their real estate, and the sisters' faith really has resulted in phenomenal work for some of the poorest of the poor in Bolivia. While I still ask questions about title, I have come to learn that the sisters' less than enthusiastic attitude about real estate documents is understandable. The never ending "red tape" required to enforce property rights in the developing world could test even a saint's patience—not to mention wipe out a mission's meager budget.

I have also found that this less than strict approach to real estate documents is held by many people in Bolivia (not just within the [Catholic] Church). Hardly anyone in Bolivia knows that I used to be a real estate lawyer, but that has not stopped numerous persons from consulting me on real estate



# THE ROOFTOPS PROJECT

Panorama

Photographer/Artist: Kathleen Curran



matters (some have also asked me to fix their computers—about which I know nothing—just to give you an idea of how desperate things are in certain areas!). In any event, on countless occasions, I have been compelled to offer even the most basic real estate advice: “Yes, you need to make sure all liens are removed and all real estate taxes have been paid.” “No, do not begin construction on property that you do not yet own. No, the fact that the project is a really good one makes no difference.” “Most definitely file the deed in the public records, instead of just giving it to your lawyer for safe keeping.” And the ever popular: “No, a handshake is NOT enough to confirm that you own the land!”

If I could give any advice to NPOs who work in a (slowly) developing nation like Bolivia it would be to play by the basic rules that are universal—like signing documents with registered notaries, and filing documents in the appropriate public records. You make a mistake in this part of the world, and you are either stuck with it without any real recourse, or you have to pay extensive sums of money (for bribes, kickbacks, etcetera) to get the problem fixed. With respect to our mission, this means taking an extremely proactive role to prevent even the smallest real estate problem from ever occurring in the first place.

We did our best to apply these universal rules when we purchased our own real estate for Mission Keep the Faith in 2007. This project is an offshoot from the Salesians. I taught in all those orphanages and schools with the hope of getting kids to graduate from high school—something only a very few do in the rural areas. Some actually did graduate, but then what? Sadly, not much in most cases. Even if they had the best grades in high school, they had no means of continuing their education, let alone moving out of their villages. Many struggled just to find jobs as farmhands or maids, and many girls got pregnant within a year of graduation. I quickly learned what is really meant by “a cycle of poverty.”

I grew up in a family where a good education was supremely important. Bolivian poverty overwhelmed me, but I focused on education as the way out. A college education in particular seemed to insure breaking cycles of poverty—and for good. We have operated our education mission for eight years now, and I am more convinced than ever that education is critical for ending poverty, forever.

How did our education mission actually begin? Not in the most organized fashion, truth be told. In 2004, an American friend rather spontaneously offered to rent a home near the state university so that we could fill it up with as many university kids as comfortably possible. We would pay for the students’ room, board, tuition, and books. The students just had to study like mad, and get top grades.

There was no real estate agent to help us find the kind of accommodation we sought. Believe it or not, our prospective student residents hit the pavement, walking in 95-plus degree weather to find the right house. Go figure that a soon-to-be law student discovered the one we settled on! The home is approximately 25 years old, and around 2000 square feet. It is one story, and fits 12 students plus two live-in staff persons. We quickly filled up the house, but still had so many great students wanting to study. We decided to have the additional students live in small apartments located near the mission home. These students receive the same benefits as the students in the home (room, board, tuition, books), and maintain very regular contact with the home.

As indicated, we decided to rent rather than purchase a home when we first began. Renting takes many forms in Bolivia—the most interesting of which is a mechanism called “anticrético.” An anticrético arrangement requires the renters to pay up front an amount equal to one year’s rent. Both parties sign a contract, and (it is recommended) the contract is then filed in the register of deeds. At the end of the year—and here is the part that Americans cannot believe—the renters get back the full amount that they have paid, and the owners get back their house. Anticrético developed because of the tremendous difficulty an average Bolivian has in getting a loan from a bank. An anticrético arrangement allows even the smallest home owners to get a loan -- and an interest-free one at that. The theory behind anticrético is that the owners will use the money to invest in a small (often informal) business that, it is hoped, will generate enough money to pay back the renters and still make a profit. If the owners do not come up with the money, the renters can continue to occupy the house until the owners return the money. Obviously, the process can be very risky, and depends a great deal on the credibility of the owner. The anticrético system has been and remains extremely popular in Bolivia.

I was not totally comfortable with anticrético, but we decided to go for it anyway. When I tell you the real foundation for our confidence in the owner, you will understand just how “local” I had let my mind-set become: the owner was an elderly woman who, by virtue of the particular purple dress she wore every day during the month of October (the month during which our negotiations happened to take place), was part of a particular national prayer group dedicated to saying the rosary every night together while walking the streets of the city. The owner’s great religious devotion impressed us enough to enter into the anticrético contract with her—but not enough to forego checking title, filing the anticrético document, and getting a formal receipt for the lump sum we paid!

After one year in the home, we renewed the contract for another year (no more money had to be paid, we just amended the contract and filed the amendment). At the end of two years, and much success on the part of our students in their university studies, we decided to make the mission permanent by purchasing a home. We would either buy the existing house we occupied, or look for another. Easy, right?





# THE ROOFTOPS PROJECT

## Panorama

The first problem we encountered was no other suitable, large houses existed near the university. Size and location were critical for us. The second problem was that the owner's adult children had become involved with the house we were renting and encouraged their mother to sell—but at a “gringo price” (a.k.a., a really inflated price just for foreigners). The money that we had already paid for the anticrético would be subtracted from the purchase price, but actually arriving at a fair purchase price would be a unique challenge.

I sought an appraisal, but found it incredibly difficult to find an appraiser. We wanted to do a cash deal, and appraisers, according to Bolivian standards, only got involved if there was going to be a mortgage. I also could not make calls looking for an appraiser because my accent would mean a gringo price for the cost of the appraisal. Consequently, I coached my most mature Bolivian students on what to say over the phone with prospective appraisers. When we finally found willing and capable appraisers (we hired three different ones), they came to the home (on separate occasions) to appraise—while I essentially hid in my bedroom. Each appraiser prepared a written report, all of which appeared to consider the same factors, but all coming to very different final appraisals (including a difference of more than 70 percent between two of the appraisals).

Exasperated, I continued to ask around to architects and lawyers whom I knew as friends for their opinions on price. No one had sold a house in our immediate area for over 20 years (property stayed in families for decades where we lived). Because I was an American, I knew that some price inflation was inevitable. I was willing to pay some, but not an unreasonable amount (I do this assessment all the time in Bolivia). The owners tried everything, including changing the purchase price several times after we had already agreed upon one, and asking for cash payments before we had even signed a contract.

Proving that in Bolivia the parish priest is still highly respected at the local level, I decided at one point to invite our parish priest to the negotiations. Everything turned incredibly reasonable after that, and we arrived at a good price for both us and the owners.

The transaction also moved forward because I hired a Japanese-born, but Bolivian-raised lawyer who understood both Bolivian as well as American culture. He knew very well how many things could go wrong in Bolivia (especially for a foreigner); he understood American standards regarding title; and he did everything possible to insure that we would not have any problems now or in the future with respect to the real estate transaction. The owner's children continually accused me of being too demanding, and not knowing how to just trust someone's word. I weathered their tirades, but never changed course in making sure that every detail was completed to the fullest letter of the law. The day we closed on the mission home, I actually recalled real estate deals I had done with fondly remembered former colleagues in U.S. large law firm practice. I honestly think I was more exhausted from a seemingly simple real estate transaction in Bolivia, than those million-dollar deals! Did I mention that, after the sale, the ex-owners wanted to come by with a pick-up truck, insisting that the flowers and plants were rightfully theirs because their mother had planted them and missed talking to them?

So we own the real estate, but what exactly is its role in our mission? Actually, a very important one. The mission of the house is to provide two things: first,

a home where students can live, eat, and feel secure enough to develop their utmost potential as human beings; and second, a place where students can actually study, learn, and even practice their prospective careers. Instead of running a home, we could have just started a fund, and distributed the money on a monthly basis. But we would not have accomplished half the success that we have had with our students. That physical place—where our students can go to (even the ones who do not live in the home) and feel welcomed, a part of something, supported, and comfortable—has been pivotal to the huge strides that they have made since first arriving at the mission home. They are the first to attend university in the history of their families; most are the first to ever even leave their villages. Initially very afraid, but forever courageous and determined, these young people have excelled at the university level and beyond. And yet, if they didn't have a place that they felt was home for them, these many positive, life-changing experiences would never have taken place. The students themselves chose the name for the home: “*Casa Nuevo Horizonte*,” which means “House of New Horizon.” It remains a perfect description of the changes students undergo at the home.

The home also offers resources that students would not have if they lived completely on their own. Resources include three computers, Internet, and a small, but growing library. The majority of Bolivian students do not own their own computers because they cannot afford one, let alone Internet service (students use Internet cafés instead—when they can pay the fees). With respect to books, almost all of our kids had never read an entire book before becoming a part of the mission home. Now, they regularly read books from our library several times a year in addition to their school work (and this applies whether they live in or outside of the home). We likewise have educational



Photographer/Artist: Kathleen Curran





Photographer/Artist: Kathleen Curran

videos that students can watch at the home whenever they want. How many college kids do you know who actually choose to watch documentaries on Friday nights? Come to our home in Bolivia!

The home also offers a place where we can meet with the students to teach themes ranging from good study habits, to the geography of Africa. Group meetings are regular and important, but so is space for those critical one-on-one conversations with students regarding their struggles and successes. That space has ranged from a corner on the porch to behind closed doors—but without it, I am certain that we would have lost some kids who thought that they could not make it, but are now successful doctors and lawyers and business persons.

The home is also a place that celebrates amazing Bolivia—and all parts of it. We regularly show videos and have discussions concerning the country's history. Additionally, we make sure that decorations in the home reflect art from many places throughout Bolivia. This is important because Bolivia has a history that includes racism and division. The art in the mission home aims to highlight the incredible artistic achievements from various ethnic groups within Bolivia.

Lastly, our physical space serves as the only real home that some of our students have ever known. Some students are orphans; others come from extremely poor families who live in one-room structures made of thatched palm trees and mud. Because of the mission home, all of our students can now say with confidence: "This is my house where I live comfortably with people who genuinely care about me every day." One of our greatest hopes is that the mission home will serve as a foundation for the future homes that students will one day have with families of their own.

While we treasure the mission home, your writings inspired me to think about a dream space. That was fun! A luxurious site would never be consistent with our mission objectives, but having real estate that is better equipped for developing the full potential of our students would be, well, a dream come true.

In the outdoor area of the home, I would design a space for basketball and volleyball. University kids need a place to let off steam! I would also add a long table with a partially covered roof for studying outside on nights when it is just too hot in the house (we live in the tropics where temperatures are regularly in the 90s accompanied with extremely high humidity).

With respect to the home itself, I would demolish it and start over! Ideally, we would have a two-story home. The first floor would be dedicated to a large social room with lots of places to sit, read, or talk; a large study room/library, complete with computers and an air conditioner; a real office with storage space (currently, staff bedrooms serve as offices during the day); and a large kitchen with a very long table where everyone can eat at the same time. The second floor would be dedicated to modest bedrooms, including for our students, staff persons, and as an addition, guests and volunteers. Many wonderful friends from the U.S. and Europe have expressed an interest in coming to Bolivia to help us at the home, but we have no room for them to sleep. Having two extra rooms for guests and volunteers would enable us to give people a first-hand experience of all the great stuff that goes on at the mission, while at the same time enhancing the home with people from different parts of the world for the students to know and learn from.

Dreams are important to have, but one also must consider reality. The challenges of our real estate in Bolivia? For one, we have an old home which





Photographer/Artist: Kathleen Curran



means lots of regular repairs. Finding responsible and knowledgeable persons to make repairs is another obstacle. Again, the fact that I am an American heightens the possibility that someone would come to repair, but end up just overcharging us for shoddy work, or worse, robbing us outright. In the developing world, inviting someone into your home that you do not know carries enormous risks. I do lots of research before I hire someone for even the smallest repair job at the home. And when it comes to negotiating a price, I have learned that it is best to leave it to the locals (my General Coordinator is Bolivian and handles most price negotiations for service work). I have a great team of workers now and pay them well, but heaven forbid one of them gets sick or moves away!

Another challenge related to real estate is security. In the developing world, just owning real estate subjects you to greater risk of serious crime. If you have been to Latin America, you have seen the large walls that hide the houses in the big cities. They build those walls because there is a lot of crime, and the police lack the resources to prevent it. When we bought the house, I quickly converted what had been a fence into a large, concrete wall. I built the wall so high and made it so thick that many of my friends now refer to the home as the "U.S. Embassy." The wall was not sufficient for me, so I added barbed wire at the top. Some really chuckle when they see all that wire, but I know it adds to our protection because I confirmed with reliable sources. Over the years in Bolivia, I have done some work to support a home for reformed street kids. Unfortunately, many street kids regularly rob houses to survive. When some of the former street kids with whom I have worked saw me walking into our home one day, they "oohed and aahed," telling me that even the craftiest among them couldn't break into our house given that wall and wire combo. Now how's that for an endorsement?

The final challenge with real estate is a more acute one: finding funds for the modification of our real estate so that it can more effectively help us achieve our mission goals. We have developed construction funds in the past, but then the economy went bad, and we had to use them to pay tuitions and other living expenses for the students. However, after thinking about our real estate and the role it has served and could serve in the future to better our mission, I recognize that we must make as a priority a construction fund if we really want to improve what the mission accomplishes for Bolivian young people. All pieces have to work together to make an excellent final product. Our real estate is a much bigger piece than I had realized, and something that will be given much greater attention in future fund-raising efforts. Our mission really does depend upon it!



**James Hagy** is Distinguished Adjunct Professor of Law at New York Law School. He also founded and directs The Rooftops Project at New York Law School's Center for Real Estate Studies. More information about The Rooftops Project and Professor Hagy may be found at [www.nyls.edu/rooftops](http://www.nyls.edu/rooftops).

Copyright © 2012 Rooftops Group LLC. All rights reserved. These materials may not be quoted, copied, referenced, or reproduced in any way, in whole or in part, whether in printed or electronic format, without express written permission, which may be given or withheld in the sole discretion of Rooftops Group LLC.

The author and copyright holder may be contacted at [james.hagy@nyls.edu](mailto:james.hagy@nyls.edu).

## Important Note:

This publication is not intended and should not be construed as legal, tax, investment, or professional advice. It does not purport to be a complete or exhaustive treatment of the topics addressed. The information and views expressed may not apply to individual readers or to their organizations or to any particular facts and circumstances. Sending or receipt of this publication does not create any attorney-client relationship. Engagement and consultation with appropriately qualified, experienced, and licensed professionals should always be sought with respect to planned transactions, investments, and projects.

Views expressed by persons or organizations interviewed or quoted by The Rooftops Project are not necessarily those of New York Law School, its faculty, staff, or students.

Neither New York Law School nor its faculty or staff evaluate, rate, review, or recommend products, services, or suppliers whatsoever. Any particular products, services, or suppliers mentioned are used as examples to illustrate concepts and are for general information only.

No representations or warranties are given whatsoever, express or implied, with respect to information contained in this publication or to its accuracy. Any representations or warranties that might otherwise exist, whether by statute, common law, or otherwise, are expressly excluded and disclaimed.

New York Law School, its faculty, and the authors, editors, and copyright holder of this publication expressly disclaim and do not accept any liability for any loss resulting from errors or omissions contained in, or for following or applying principles or views expressed in, this publication, including without limitation any liability for direct, indirect, consequential, exemplary, or punitive damages or for loss of profits or business opportunity, whether by tort, negligence, breach of contract, or otherwise.

